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Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Azerbaijan, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 27 December 2001 from the Chargé d'affaires of the Permanent Mission of Azerbaijan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit herewith a report from the Republic of Azerbaijan to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Yashar **Aliyev**
Chargé d'affaires

Enclosure

[Original: Russian]

Report to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

Azerbaijan

In light of the events of 11 September, the war on terrorism has been given centre stage in efforts to guarantee not only national but also the entire system of international security. The Government of the Republic of Azerbaijan continues to fully support the international community's efforts in that regard, unequivocally condemning terrorism in all its forms and manifestations, irrespective of its political, economic, religious or other motives. However, the war on terrorism should not be used to target any particular religion or culture.

As terrorism increasingly acquires the proportions of a global threat, it becomes imperative for the international community to join forces to meet the challenge by adopting a unified approach, not merely by pursuing individual States' interests. Azerbaijan is of the view that international counter-terrorism efforts over the long term should target not so much individual terrorist organizations, groups and individuals but rather the root causes of terrorism. Terrorist acts — a form of politically motivated extremism — all share one characteristic, namely the use of violence for political ends.

Terrorism is closely related to aggressive separatism, organized crime and trafficking in drugs, weapons and human beings. Areas of armed conflict, especially in occupied and uncontrolled territories, constitute fertile soil for terrorist and criminal groupings to flourish.

The absence of a clear definition of terrorism in international law merely hampers the efforts of the international community in bringing not only individual terrorists and organizations to account, but also States that promote, support or finance terrorist activities. Moreover, the vagueness of legal formulations opens the way for a potential increase in criminal activities.

Azerbaijan has itself fallen victim to terrorism. Since the late 1980s, when Armenia openly encroached upon the territory of Azerbaijan and began its military activities in the Nagorny Karabakh area of the Republic of Azerbaijan, Armenian terrorists have repeatedly committed terrorist acts in the territory of Azerbaijan. Terrorism in Armenia has been raised to the status of State policy. Certain Armenian terrorists who have been condemned in other countries for their criminal activities are currently members of the Armenian political elite, and their nationalistic cult ("Fighters for the national idea") enjoys the fullest support within official political circles and political parties. On more than one occasion, Azerbaijan has submitted specific details of Armenian terrorist activities to the United Nations (A/C.6/50/4 and A/C.6/51/5), drawing the international community's attention to these facts and urging it to take concrete action. Regrettably, Azerbaijan's appeals went unheeded at the time.

Legal basis for combating terrorism

The legislation of the Republic of Azerbaijan in the field of counter-terrorism has been brought into line with international legal instruments and is currently being further refined. The most significant domestic legal standard in this field is the Counter-Terrorism Act of the Republic of Azerbaijan of 18 June 1999. A decree promulgating the act was issued on 30 August 1999.

The Counter-Terrorism Act establishes the legal and institutional groundwork for counter-terrorism efforts in Azerbaijan, coordinates the action of State agencies engaged in counter-terrorism and sets out the rights and duties of such agencies and of citizens. *Article 1* of the act establishes the following key definitions:

- **"Terrorism"** means the commission of or threat to commit activities intended to cause massive loss of life, injuries to persons or other harm to their health, or destruction of (or damage to) their property or other serious consequences with the aim of undermining public security, spreading panic among the population or forcing State authorities to take decisions that comply with the demands of the terrorists.
- **"Terrorist"** means a person who takes part in any form of terrorist activity.
- **"Terrorist group"** means an association of two or more persons whose aim is to carry out terrorist activities.
- **"Terrorist organization"** means an organization that either is established for the purposes of carrying out terrorist activities or does not exclude the possible use of terrorism in its activities. If any of its subdivisions engages in terrorist activities with the approval of one of the organization's steering bodies, then the organization is considered a terrorist organization.
- **"Counter-terrorism"** means activities involving the detection or prevention of terrorist activities, or efforts to minimize the damage that may be caused by a terrorist act.
- **"Terrorist activity"** means an activity involving the organization, planning, preparation or commission of terrorist acts; violence against physical or juridical persons with the aim of creating terror by destroying or damaging physical installations; the establishment of illegal armed factions or criminal groups with the aim of carrying out terrorist acts, as well as participation in such acts; incitement of persons to terrorism; the arming, training or use of such persons; and the deliberate provision of funding or other assistance to terrorist organizations or terrorist groups.
- **"International terrorist activity"** means any activity that is carried out by terrorists or terrorist organizations in the territories of several States, or is connected with a crime committed outside the territory of a given State that could harm the interests of several States by an individual against a citizen of any State in the territory of the State to which the said individual belongs, or of another State in the event that the terrorist and the victim of the terrorism are citizens of the same or of different States.

In addition, the article defines **"counter-terrorism operations"** and **"zones of counter-terrorism operations"**.

Criminal liability for terrorism is also provided for in *art. 214 on terrorism and art. 277 on attempts on the life of a State or public figure (terrorist act) of the Criminal Code of the Republic of Azerbaijan of 2000*. The offences enumerated in these articles constitute serious or very serious crimes depending on their nature and the degree of public danger which they entail.

Art. 214 of the Criminal Code of the Republic defines "terrorism" as the causing of an explosion or arson or the commission of other acts that endanger the lives of people, cause significant damage to property or other serious consequences, if such acts are committed with the aim of undermining public security, terrorizing people or pressuring the authorities to take decisions to comply with the perpetrator's demands, or threatening to commit these acts for such ends.

Pursuant to the *Criminal Code*, the author of such a crime is any physical person of sound mind who has attained the age of 14 years by the time of committing the crime. Persons who have committed or have participated in the commission of terrorist acts, wherever such acts may have been planned or committed, are brought to trial and sentenced in accordance with the law of the Republic of Azerbaijan, and, under treaties concluded by Azerbaijan with other States, may be extradited to a foreign State to stand trial or to serve their appointed sentence.

In accordance with *art. 12.3 of the Criminal Code*, foreign nationals and stateless persons who have committed crimes against peace or humanity or who have been involved in terrorism, the hijacking of an aircraft, the taking of hostages, attacks on persons or organizations enjoying international protection — or other crimes punishable in accordance with international agreements to which Azerbaijan is a party — are to be tried and punished, irrespective of the location of the crime. However, it should be noted that, in accordance with the note appended to *art. 214 of the Criminal Code*, criminal liability may be waived if a person who has participated in planning an act of terrorism gives timely warning to the authorities or who enables by some other means the prevention of the act in question, and providing that person has committed no other crime.

Art. 4 of the Counter-Terrorism Act defines the **basic principles of counter-terrorism**:

- Law enforcement;
- Inevitability of punishment for the commission of terrorist acts, pursuant to the legislation of Azerbaijan;
- Coordination of overt and covert counter-terrorism measures;
- Comprehensive use of judicial, political, socio-economic and organizational precautionary measures;
- Preferential protection of the rights of persons endangered as a result of a terrorist act;
- Independence in directing forces employed in the conduct of counter-terrorism operations;
- Minimal transparency with respect to identifying the personnel involved in counter-terrorism operations, and with respect to the technical means and tactics that may be employed to such ends.

In accordance with *art. 6 of the Counter-Terrorism Act*, State and local agencies — irrespective of the type of organization — as well as voluntary associations, public servants and citizens are obliged to render assistance to State bodies engaged in counter-terrorism. Such assistance may involve transmitting information or communications that could lead to the detection and forestalling of a terrorist act or to minimizing the destruction that might be caused by such an act. At the same time, in accordance with *art. 216 of the Criminal Code*, uttering a communication that is knowingly false concerning an act of terrorism is a punishable crime.

Chapter III of the Counter-Terrorism Act envisages compensation for damage resulting from terrorist acts, as well as judicial and social protection for persons engaged in counter-terrorism.

In addition to terrorism, the Criminal Code establishes the following types of crime:

- *"Hostage-taking" — art. 215*;
- *"Hijacking an aircraft, sea vessel or railway train" — art. 219*;
- *"Illegal manufacture of weapons" — art. 229*;
- *"Misappropriation or extortion of weapons, ammunition, explosive substances or explosive devices" — art. 232*;
- *"Establishment of military formations or groups that are not provided for in legislation" — art. 279*.

An organization active in the territory of the Republic of Azerbaijan (or its branch or mission) may — owing to its association with terrorist activities — be dissolved by a court order pursuant to legally established procedures in the Republic of Azerbaijan. In accordance with the legislation of the Republic, upon the dissolution of such an organization, its property is confiscated and becomes State property.

Pursuant to the *Act of the Republic of Azerbaijan on the Status of Refugees and Forcibly (Internally) Displaced Persons* of 8 July 1999, refugee status may not be granted to a person who, as established by international law, has committed a crime against peace, a war crime, a crime against mankind or humanity; a person who, prior to entering the territory of the Republic of Azerbaijan, has committed a serious crime of a non-political nature outside its borders; or a person found guilty of committing acts that are contrary to the purposes and principles of the United Nations.

In accordance with the *Act of the Republic of Azerbaijan on Grants* of 17 April 1998, agreements (decisions) concerning the provision of grants to foreign recipients by donors who are juridical or physical nationals of the Republic of Azerbaijan must be registered by the Cabinet of Ministers of the Republic.

In accordance with the *Act of the Republic of Azerbaijan on Non-Governmental Organizations (Voluntary Associations and Funds)* of 13 June 2000, the Ministry of Justice of the Republic is responsible for carrying out official registration of non-governmental organizations in accordance with the legislation of the Republic concerning the registration of juridical persons. A non-governmental

organization may acquire the status of a juridical person only through official registration.

Pursuant to the *Decision of the Cabinet of Ministers of the Republic of Azerbaijan on International Humanitarian Organizations and Their Missions in the Republic of Azerbaijan* of 2 November 1994, international humanitarian organizations and other foreign missions conducting charitable activities in the Republic must be registered by the Ministry of Justice in accordance with legally established procedures.

In accordance with the *Act of the Republic of Azerbaijan on Banks and Banking Activities in the Republic of Azerbaijan* of 14 June 1996, funds and other assets belonging to juridical and physical persons that are held by a credit organization may be frozen only following a court order and in accordance with legally established procedures. On being informed of the relevant order, the credit organization must immediately cease all current account and investment operations (in an amount equivalent to the sum being frozen). Confiscation of the funds or other assets held by the credit company is effected in accordance with the court ruling once it has force of law.

The Republic's strong desire to engage in counter-terrorism measures is evidenced by its adoption of an *Act on Accession to the International Convention for the Suppression of the Financing of Terrorism* of 1 October 2001. On 11 October 2001, the President of the Republic signed a *Legislative Decree on Adoption of the Act on Accession to the International Convention for the Suppression of the Financing of Terrorism*. In order to bring existing legislative acts into line with the International Convention for the Suppression of the Financing of Terrorism, pursuant to the above-mentioned presidential decree, the Ministry of Justice, the Office of the Public Prosecutor, the Ministry of State Security and the Ministry of Internal Affairs of the Republic of Azerbaijan have been engaged in the joint drafting of a bill to supplement and amend the Criminal Code of the Republic of Azerbaijan and the Counter-Terrorism Act of the Republic of Azerbaijan, and have submitted the bill to the relevant bodies for consideration.

Azerbaijan has acceded to 8 of the 12 international conventions on counter-terrorism and to nine European conventions relating to counter-terrorism (see annex). Moreover, Azerbaijan has acceded to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989 and the United Nations Convention against Transnational Organized Crime of 2000.

Executive measures

The law-enforcement agencies of the Republic are engaged in implementing all necessary measures to identify, arrest and prosecute persons suspected of organizing, financing, supporting or committing acts of international terrorism. To this end, efforts to combat international terrorism have been further intensified since 1996, including:

- Enhanced surveillance and protection of Azerbaijan's frontiers;
- Implementation of relevant measures to suppress the illegal immigration into Azerbaijan of foreign nationals and to effect the deportation within a specified time frame of illegally settled persons;

- Intensified oversight to ensure strict adherence to passport and registration procedures, and monitoring of aliens who are temporarily or permanently resident in Azerbaijan;
- Strengthened passport controls at frontier entry points;
- Operation of a computer-aided system for registering arrivals and departures.

A package of strict precautionary, intelligence and detection measures have been implemented to strengthen protection of vital installations, gas and oil pipelines, relevant reservoirs, terminals, communications, water resources, arms and ammunition depots, radioactive and toxic substances, airports, seaports, shipyards, wharves, embassies, international organizations and missions, foreign enterprises and religious institutions. A plan has been drafted for the implementation of supplementary measures for identifying and detecting members of international terrorist organizations or groupings engaged in transnational or inter-regional organized crime and persons closely associated with the latter, as well as persons likely to engage in criminal activities or religious extremism, and the relevant instructions for implementation of the plan have been transmitted to police agencies in the national territory.

At the same time, the Ministry of Internal Affairs and the Ministry of State Security have drafted a plan of joint measures to intensify efforts to combat terrorism, and relevant joint operations with security agencies are envisaged for the future.

Law-enforcement agencies in Azerbaijan are currently implementing intelligence and detection measures to identify, localize and arrest terrorist groups and persons, as well as precautionary measures to prevent any activities connected with terrorism, in accordance with Azerbaijani legislation.

The National Bank of the Azerbaijani Republic has issued instructions to all the Republic's banks requiring them to submit to it information concerning suspect transactions involving their clients' accounts. In addition, all the Republic's banks have been instructed to identify bank accounts belonging to persons involved in international terrorism. To date, no evidence of any such accounts has come to light.

Furthermore, the National Bank recommended that the Act of the Republic of Azerbaijan on Foreign-Currency Regulation of 21 October 1994 restricting the import into the territory of the Republic of foreign currency should be amended and supplemented in order to combat the circulation of funds from unknown or illicit sources.

Consequently, measures continue to be implemented to promote adoption by Azerbaijan's banking system of international principles defining overall arrangements for ensuring that the banking system is not used to legalize the funding of crime or ill-gotten proceeds, as well as the basic policies of banks in that domain.

Guided by the relevant United Nations Security Council resolutions and recommendations of the Ministry of Foreign Affairs of Azerbaijan, the State civil airline, Azerbaijan Airlines (*Azerbaijan Hava Yollari*), is in the process of implementing measures to strengthen control over the security of flights and the use of Azerbaijani airspace and airports. In addition, and pursuant to agreements concluded with *Lufthansa*, *Swissair*, *British Mediterranean Airways* and other

airlines concerning the realization of flights, the Civil Aviation Security Directorate is engaged in operations to identify persons attempting to use counterfeit documents for the purpose of transiting the territory of Azerbaijan.

Azerbaijan actively cooperates on a bilateral basis with many States to combat international terrorism. At the regional level, Azerbaijan participates in the work of the Commonwealth of Independent States (CIS) Anti-Terrorist Centre in the field of information and analysis. Close cooperation is also maintained between the law-enforcement agencies of the GUUAM (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova) Group of States.

Annex

International counter-terrorism conventions to which Azerbaijan is a party

1. Convention for the Suppression of Unlawful Seizure of Aircraft (1970)
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)
4. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988)
5. International Convention against the Taking of Hostages (1979)
6. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)
7. International Convention for the Suppression of Terrorist Bombings (1997)
8. International Convention for the Suppression of the Financing of Terrorism (1999)

European conventions to which Azerbaijan is a party

1. European Convention on Extradition (1957)
2. Additional Protocol to the European Convention on Extradition (1975)
3. Second Additional Protocol to the European Convention on Extradition (1978)
4. European Convention on Mutual Assistance in Criminal Matters (1959)
5. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (1978)
6. European Convention on the Transfer of Proceedings in Criminal Matters (1972)
7. European Convention on the Suppression of Terrorism (1977)
8. European Convention on the Compensation of the Victims of Violent Crimes (1983)
9. Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990)